

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

Ft. Worth Division

ERGUN CANER,

Plaintiff,

v.

JASON SMATHERS,

Defendant.

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Civil Action No. 4:13-cv-00494 (Y)

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**DEFENDANT’S *NUNC PRO TUNC* MOTION FOR BRIEF ENLARGEMENT OF TIME
TO FILE HIS PETITION FOR ATTORNEYS’ FEES**

NOW COMES Defendant Jason Smathers to respectfully move the Court to extend his filing deadline for his Petition for Attorneys’ Fees, Dkt. #54, by one hour and two minutes.

Smathers has good cause to request this extension. The undersigned lives in Virginia and Smathers lives in Arizona. Because he had been discussing the case today at length with his client (and mentally converting the time accordingly), the undersigned accidentally conflated the time zone of his client (Mountain) with the time zone of this Court (Central) when working on the fee petition, and did not realize until after it was filed that it was an hour late.¹ He did not file the petition earlier because he was waiting to do any writing on it to give Plaintiff’s counsel a chance to respond to the settlement offer he sent early this morning, which he did not receive until 5:02 PM, near the close of business.

¹ The additional two minutes was due to an issue he faced when logging into ECF; he was using a different computer and had trouble locating his ECF password for this Court, which was randomly assigned and which he has not memorized because he rarely uses it.

Smathers has not requested any previous extensions for this filing. Because of the lateness of the hour and the negligibility of the tardiness, the undersigned is going ahead and filing this Motion without seeking Plaintiff's position. A proposed Order consistent with the relief sought also accompanies this Motion.

Date: May 2, 2014

Respectfully submitted,

/s/ Kelly B. McClanahan

Kelly B. McClanahan, Esq.
N.D. Tex. Bar #984704DC
National Security Counselors
1200 South Courthouse Road
Suite 124
Arlington, VA 22204
301-728-5908
240-681-2189 fax
Kel@NationalSecurityLaw.org

Counsel for Defendant